

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

MARLON BARRIOS and ANGEL MORALES individually and on behalf of all other persons similarly situated who were employed by SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE, and/or any other entities affiliated with or controlled by SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE,

Plaintiffs,

-against-

SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE, and/or any other entities affiliated with or controlled by SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE,

Defendants.

No.: 12-cv-03663 WJM-MF

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**TO:** To: All current and former employees of SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE (collectively “Suburban/Roselle”) who performed work as drivers, driver’s helpers, waste collectors, and loaders from June 14, 2009 through March 14, 2014. (the “Class”).

### **PLEASE READ THIS NOTICE CAREFULLY**

This Notice relates to a proposed settlement of a class action litigation (the “Settlement Agreement”). It has been authorized by the United States District Court. It contains important information as to your right to participate in the settlement, make a claim for payment or elect not to be included in the Class.

### **INTRODUCTION**

Former Suburban/Roselle employees, MARLON BARRIOS and ANGEL MORALES filed a lawsuit in 2012 alleging claims for unpaid wages pursuant to the Fair Labor Standards Act and the New Jersey overtime law. The court in charge of this case is the United States District Court in Newark, New Jersey (the “Court”). The lawsuit is known as *Barrios, et al. v. Suburban Disposal, et al.*, (the “Action”). The individuals who filed the lawsuit are called the Plaintiffs or Class Representatives. Plaintiffs allege in the lawsuit that, among other things, Defendants failed to pay them and other similarly situated drivers, driver’s helpers, waste collectors, and loaders overtime wages when they worked over 40 hours a week during the period from June 14, 2009 through March 14, 2014.

Plaintiffs and Defendants have agreed to settle the action subject to the approval of the Court (depending on certain conditions set forth in the Settlement Agreement). Defendants have defended and have vigorously contested the claims in the Action. Defendants deny all material allegations in the Action, have asserted numerous defenses and further maintain that they have consistently acted in accordance with governing laws at all times. Defendants, while denying wrongdoing of any kind whatsoever, and without admitting liability, nevertheless have elected to settle the Action to avoid the expense, inconvenience and the distraction of litigation. The Court has not finally determined who is right and who is wrong or whether this case could, in the absence of this Settlement, proceed as a class action.

Your legal rights may be affected. These rights and options are summarized below and fully explained in this Notice.

### **YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:**

<b>PARTICIPATE</b>	As described more fully below, to participate in the settlement you must send a properly completed Claim Form and Release along with a completed W-4 Form and one proof of government issued identification such as your Passport, Green Card or Driver’s License (“Supporting Documentation”) to the Settlement Claims Administrator. The Claim Form and Release must be post-marked, emailed or faxed by <b>JULY 20, 2015</b> .
<b>EXCLUDE YOURSELF</b>	If you wish to exclude yourself (“opt-out”) from the lawsuit you must follow the directions outlined in response to question 7 below.
<b>OBJECT</b>	Write to the Court about why you believe the settlement is unfair or unreasonable. If the Court rejects your objection, you will still be bound by the terms of the settlement unless you submit a valid and timely request for exclusion (“opt-out”). You will not be bound by the settlement if you opt-out of this action as described herein. If you object you may appear at the Fairness Hearing to speak to the Court about the fairness of the settlement.

**1. Why did I receive this notice?**

You have received this notice because Defendants' records show that you worked for Suburban/Roselle during the period from June 14, 2009 through March 14, 2014.

**2. What is a class action?**

A class action is a lawsuit where one or more persons sue not only for themselves, but also for other people who have similar claims. These other people are known as Class Members. In a class action, one court resolves the issues for all Class Members, except for those who exclude themselves from the Class. United States Magistrate Judge Mark Falk is presiding over this class action settlement.

**3. Why is there a settlement?**

Class Counsel has analyzed and evaluated the merits of the claims made against Defendants in the Litigation, analyzed payroll, contract, financial and other pertinent data for the Class. Class Counsel and Defendants also participated in extensive motion practice and discovery including the exchange of thousands of pages of documents. In addition, the parties participated in settlement session with Judge Falk. Based upon an analysis and evaluation of this data, relevant law, the potential for a change in the law that might severely limit or terminate the ability of class members to recover for these alleged unpaid wages, and the substantial risks of continued litigation, including the possibility that the litigation, if not settled now, might not result in any recovery whatsoever, or might result in a recovery that is less favorable and that would not occur for several years, Class Counsel has entered into this proposed settlement. Class Counsel is also aware that if a settlement is not reached, and the judgment enforced, it could lead insolvency or bankruptcy of Suburban/Roselle. Class Counsel is satisfied that the terms and conditions of this Agreement are fair, reasonable and adequate and that this Agreement is in the best interest of the Plaintiffs and other Class Members, such as yourself.

**4. Payment to Class**

Your settlement allocation is based on the following definitions and formulas:

- A. A **"Full-Time"** worker shall be defined as a Class/Collective Member that worked 5 or more days per week for 66.67% of the weeks worked during the Relevant Period.
- B. A **"Part-Time"** worker shall be defined as a Class/Collective Member that is not a Full-Time worker.
- C. Full-Time workers shall be entitled to 5.56% of their W-2 or 1099 reported gross earnings during the Relevant Period as defined herein.
- D. Part-Time workers shall only be entitled to payments if they worked five or more days per week and compensated as follows: (i) 5 days of work in a consecutive seven day week shall be entitled to five hours pay at a rate of one-half their regular hourly wage.; (ii) 6-7 days of work in a consecutive seven day week shall be entitled to ten hours pay at a rate of one-half their regular hourly wage.
- E. Full-Time and Part-Time Suburban Disposal FLSA Collective Members and Louis T. Roselle, Inc. FLSA Collective Members shall be entitled to liquidated damages in an amount equal to 100% of the wages they are entitled to pursuant to (C) or (D) above. Each Claimant shall contribute a sum equal to fifteen percent (15%) of his or her Individual Gross Amount for payment of professional fees, costs and service awards. A complete description of the settlement allocation formula may be found in the executed Settlement Agreement on file with the Clerk of the Court.

**5. Payment to Class Representatives**

The Settlement proposes that the Class Representatives, who took a lead role in this litigation and assisted in its resolution, will receive service payments totaling (\$15,000) Fifteen Thousand Dollars collectively, for taking a leading role in this litigation and particularly for their very significant involvement and time devoted to the discovery process for the benefit of the Class Members.

**6. Procedures**

To receive a distribution, you must timely complete and return the enclosed Claim Form and Release and other Supporting Documentation according to instructions provided on the form. The Claim Form and Release must be personally filled out by the current or former employee who seeks to participate in the Settlement or someone with a legal right to act on his or her behalf and must be **accompanied by a government issued photo identification such as a driver's license, or passport. Your W-4 Form must contain a valid Social Security Number or Tax Identification Number ("TIN").** If you do not have a valid Social Security Number or Tax Identification Number you will be given up to one year to obtain a valid number otherwise you will not receive a settlement payment.

The Claim Form and Release and all Supporting Documentation must be mailed, fax or emailed to the Settlement Claims Administrator on or before July 20, 2015 (the "Bar Date"). If you mail the Claim Form and Release it must be post-marked by the Bar Date. If you do not properly complete and timely submit the Claim Form and Release and all Supporting Documentation, your settlement payment will be delayed, or denied.

You should keep in mind that if you do not withdraw from this settlement ("opt out"), and if you do not properly and timely complete and return the Claim Form and Release and provide all Supporting Documentation by the Bar Date, and in accordance with instructions provided on the form, you will not receive a distribution from the settlement fund, but you will still be bound by the Release of all claims as described in response to question below.

If you timely return the enclosed Claim Form and Release and all Supporting Documentation to the Settlement Claims Administrator so that it is post-marked by the Bar Date, the Settlement Claims Administrator will make your payments after a Fairness Hearing is held by the Court.

If the Court grants final approval of the Settlement, this action will be dismissed with prejudice against SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE. Class Members who do not opt out will fully release and discharge Defendants and Related Entities through March 14, 2014 from New Jersey state wage and hour claims that have been asserted in the Complaint. This means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants regarding the same or similar wage and hour violations brought in this case. It also means that all of the Court's orders will apply to you and legally bind you.

Finally, the wage underpayment calculations in this settlement are based on work performed by the Class through March 14, 2014. Suburban/Roselle represent that starting on March 15, 2014 the company instituted new time-keeping policies and procedures. Suburban/Roselle further represent that as a result of these new policies and procedures there are no longer any payroll discrepancies that gave rise to this Action. If you disagree and believe that you were not properly paid wages after March 15, 2014, you must object to this proposed settlement or opt-out of this Action as described in Questions 7, 8, 9, 12, and 13 below.

#### **7. How Do I Exclude Myself From The Settlement?**

If you do not wish to participate in this proposed settlement, but you want to keep the right to sue or continue to sue Defendants, on your own, about the legal issues in this case or which could have been brought in this case, then you must take steps to exclude yourself from this case.

If you intend to exclude yourself, you must mail a written, signed statement to the Settlement Claims Administrator stating "I opt out of the Suburban/Roselle lawsuit" and include your name, address, and telephone numbers ("Opt-out Statement"). To be effective, the Opt-out Statement must be and mailed, fax or emailed to the Settlement Claims Administrator on or before the Bar Date, July 20, 2015. If you mail the Claim Form and Release it must be post-marked by the Bar Date and mailed to:

FRG Information Systems Corp.  
P.O. Box 460 Peck Slip Sta  
New York, NY 10272  
Tel. (212)490-3550  
FAX (212) 490-5709  
Email: [efile@frginfosys.com](mailto:efile@frginfosys.com)  
RE: Suburban/Roselle Class Action

If you exclude yourself from the Lawsuit and Settlement, you will NOT be allowed to object to the settlement as described in paragraph 12 below and you will not be entitled to receive a settlement agreement.

#### **8. If I don't exclude myself from the settlement, can I sue Defendants for the same thing later?**

Unless you opt-out of this lawsuit, you give up any rights to sue Defendants and individuals and/or entities associated with the Defendants for claims brought in this case or which could have been brought in this case, or in the future in the event there is a change in existing law. Remember, the exclusion (opt-out) deadline is July 20, 2015. If you opt-out, you will be required to commence your own civil action.

#### **9. If I exclude myself, can I get money from this settlement?**

No. If you exclude yourself, you will not receive any money from this lawsuit.

#### **10. Do I have a lawyer in this case?**

The law firm of Virginia & Ambinder, LLP, 40 Broad Street, 7<sup>th</sup> Floor, New York, New York, 10004, (212) 943-9080, [www.vandallp.com](http://www.vandallp.com) has been designated as legal counsel to represent you and the other Class Members. You will not be charged separately for these lawyers. Their fees are being paid from the Gross Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

**11. How will the lawyers be paid?**

Class Counsel will ask the Court to approve payment of up to twenty-five percent 25% of the Gross Settlement Fund established by Defendants to them for attorneys' fees plus litigation expenses and all other Costs and Fees to be paid from the Settlement Fund. Other litigation expenses incurred by Class Counsel includes the retention of the Claims Administrator, FRG Information Systems. The fees would also pay Class Counsel for all work that they have performed in this action including filing briefs, engaging in discovery, depositions, motion practice, legislative research, investigating the facts, attending court conferences, participating in private mediation, and negotiating and overseeing the settlement.

**12. How do I tell the Court that I don't like the settlement?**

You can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. If the Court rejects your objection, you will still be bound by the terms of the settlement with respect to the Released Class Claims (as defined in the Settlement Agreement on file with the Court) unless you have submitted a valid and timely request for exclusion. To object, you must send a letter saying that you object to the settlement of *Suburban/Roselle Class Action*. Your statement must include all reasons for the objection and any supporting documentation in your possession. Your statement must also include your name, address, email address, and telephone number.

If you wish to present your objection at the Fairness Hearing described below, you must state your intention to do so in your written objection. Your statement should be as detailed as possible otherwise the court may not allow you to present reasons for your objection at the Fairness Hearing that you did not describe in your written objection. Mail the objection to the Settlement Claims Administrator via First-Class United States Mail, postage prepaid at the address below. Your objection will not be heard unless it is received by the Bar Date or mailed to the Settlement Claim Administrator via First Class United States Mail and post-marked by the Bar Date.

FRG Information Systems Corp.  
P.O. Box 460 Peck Slip Sta  
New York, NY 10272  
Tel. (212)490-3550  
FAX (212) 490-5709  
Email: [efile@frginfosys.com](mailto:efile@frginfosys.com)  
RE: Suburban/Roselle Class Action

The Settlement Claims Administrator will share your objection with Class Counsel and Defendants' counsel and your objection will be filed with the Court.

You may not object to the settlement if you submit a letter requesting to exclude yourself or "opt-out" of the settlement of the lawsuit.

**13. What's the difference between objecting and excluding?**

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself from the settlement ("opting-out") is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

The Court will hold a Fairness Hearing to decide whether to approve the settlement. Class Counsel will answer questions the Judge may have. You do not have to come to the hearing, but you are welcome to do so at your own expense.

If you send an objection, it is not necessary for you to come to Court to talk about it, but you may do so at your own expense or pay your own lawyer to attend. As long as you mailed your written objection on time, the Court will consider it. If you do attend the hearing, it is possible that you will not be permitted to speak unless you timely object in writing as described above and notify the Court of your intention to appear at the Fairness Hearing.

**14. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Fairness Hearing on Tuesday January 7, 2016 at 10:00 a.m. at the United States District Courthouse, 60 Walnut Street, Newark, New Jersey. The hearing will take place before Hon. Mark Falk. At this hearing Judge Falk will consider whether the terms of the settlement are fair, reasonable, and adequate. If there are objections, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

**15. Are there more details about the settlement?**

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can review the Settlement Agreement by asking for a copy of the Settlement Agreement by writing or calling Lloyd Ambinder, Esq. or Jack Newhouse, Esq. at (212) 943-9080, Virginia & Ambinder, LLP, 40 Broad Street, 7<sup>th</sup> Floor, New York, New York, 10004, [www.vandallp.com](http://www.vandallp.com).

MARLON BARRIOS and ANGEL MORALES individually and on behalf of all other persons similarly situated who were employed by SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE, and/or any other entities affiliated with or controlled by SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE,

12-cv-03663 WJM-MF

Plaintiffs,

-against-

SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE, and/or any other entities affiliated with or controlled by SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE,

Defendants.

## **PROOF OF CLAIM FORM AND RELEASE**

**TO:** All drivers, driver's helpers, waste collectors and loaders that were employed by Defendants SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, and LOUIS ROSELLE from June 14, 2010 through March 14, 2014, 2014 (the "Class").

### **CLAIM FORM INSTRUCTIONS**

#### ***YOU MUST COMPLETE THIS FORM IF YOU WANT TO PARTICIPATE IN THIS SETTLEMENT***

1. YOU ARE ENCOURAGED TO READ THE NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION (THE "NOTICE"), WHICH ACCOMPANIES THIS CLAIM FORM.
2. TO BE ENTITLED TO PARTICIPATE IN THIS PROPOSED CLASS ACTION SETTLEMENT, YOU MUST MAIL, FAX OR EMAIL THIS CLAIM FORM WITH SUPPORTING DOCUMENTS ON OR BEFORE **JULY 20, 2015** (THE "CLAIM BAR DATE") TO:

FRG Information Systems Corp.  
P.O. Box 460 Peck Slip Station  
New York, NY 10272  
Re: Suburban Roselle Class Action  
Fax No. (212) 490-5709  
E-Mail: [efile@frginfosys.com](mailto:efile@frginfosys.com)

3. IF YOU FAIL TO SUBMIT A PROPERLY ADDRESSED AND FULLY COMPLETED CLAIM FORM WITH THE REQUIRED SUPPORTING DOCUMENTS POST-MARKED, FAXED OR EMAILED BY **JULY 20, 2015** YOU WILL BE PROHIBITED FROM PARTICIPATING IN THIS SETTLEMENT, UNLESS OTHERWISE PERMITTED BY THE COURT.

### **CLAIMANT IDENTIFICATION AND REQUIRED SUPPORTING DOCUMENTATION**

AS A CLAIMANT YOU MUST PROVIDE A **CLEAR COPY** (SPECIALLY FOR FAX OR EMAIL SUBMISSIONS) OF ANY ONE OF THE FOLLOWING DOCUMENTS SUFFICIENT TO ESTABLISH YOUR IDENTITY: (A) DRIVER'S LICENSE; (B) PASSPORT; (C) WORK AUTHORIZATION CARD ("GREEN CARD"); (D) ANY OTHER PHOTOGRAPHIC IDENTIFICATION WHICH IS NOT READILY SUBJECT TO FORGERY YOU MUST PROVIDE AT LEAST ONE (1) OF THESE DOCUMENTS. FAILURE TO PROVIDE SUFFICIENT DOCUMENTATION MAY RESULT IN THE REJECTION OR DELAY OF YOUR CLAIM.

**THIS CLAIM FORM AND THE REQUIRED SUPPORTING DOCUMENTATION MUST BE FAXED, E-MAILED OR MAILED AND POST-MARKED ON OR BEFORE JULY 20, 2015\***

\* You shall be granted a fifteen day (15) extension beyond the Claim Bar Date in instances where you can show that you did not receive or could not reply to the Notice due to such circumstances as a change of address, military service or hospitalization.



**RELEASE**

By my signature below, by operation of the entry of the Final Order, and except as to such rights or claims as may be created by this Agreement, I hereby acknowledge and agree to release any and all claims, demands, rights, actions, causes of action, liabilities, damages, losses, obligations, judgments, duties, suits, costs, expenses, matters and issues arising in any way during the Settlement Period, whether known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, including unknown claims, that could have been, or might be asserted in any court, tribunal or proceeding, against SUBURBAN DISPOSAL INC., LOUIS T. ROSELLE, INC., CHRISTOPHER ROSELLE, DANIEL J. ROSELLE, JOHN ROSELLE, ROBERT ROSELLE, KERRY ROSELLE, and LOUIS ROSELLE as set forth in the Settlement Agreement and that arise out of, relate to, or concern the allegations in the Action, including statutory, constitutional, contractual or common law claims for unpaid regular or overtime wages, unpaid gratuities, service charges, tips, any related wage and hour claims, interest on such claims, penalties, damages, liquidated damages, attorneys' fees, expenses, disbursements, litigation costs and fees, restitution, or equitable relief.

**CLAIMANT INFORMATION****PRINT BELOW:**

First, Middle Initial, Last \_\_\_\_\_ Area Code - Telephone Number \_\_\_\_\_

Street Address \_\_\_\_\_ Apt. No., (if any) City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Social Security or Tax Identification Number ("TIN") \_\_\_\_\_ E-mail Address \_\_\_\_\_

SIGN HERE: \_\_\_\_\_ DATE: \_\_\_\_\_

**THE LAW FIRM OF VIRGINIA & AMBINDER REPRESENTS THE CLASS MEMBERS.  
IF YOU HAVE ANY QUESTIONS PLEASE CALL VIRGINIA & AMBINDER AT (212) 943-9080**

**ALL CONVERSATIONS AND COMMUNICATIONS WITH VIRGINIA & AMBINDER, LLP  
SHALL BE TREATED AS CONFIDENTIAL AND PRIVILEGED**

**YOU HAVE A RIGHT TO PARTICIPATE IN THIS SETTLEMENT EVEN IF YOU ARE AN UNDOCUMENTED ALIEN.**

**YOU MUST COMPLETE AND SIGN THE W-4 FORM BELOW INCLUDING YOUR SOCIAL SECURITY NUMBER "TIN")**

<b>Form W-4</b> Department of the Treasury Internal Revenue Service		<b>Employee's Withholding Allowance Certificate</b> ▶ Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.		OMB No. 1545-0074 <b>2015</b>	
1 Your first name and middle initial		Last name		2 Your social security number	
Home address (number and street or rural route)		3 <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.			
City or town, state, and ZIP code		4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. ▶ <input type="checkbox"/>			
5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)		5 <input checked="" type="checkbox"/>			
6 Additional amount, if any, you want withheld from each paycheck		6 \$			
7 I claim exemption from withholding for 2015, and I certify that I meet both of the following conditions for exemption. • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability, and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here. ▶ 7					
Under penalties of perjury, I declare that I have examined this certificate and, to the best of my knowledge and belief, it is true, correct, and complete.					
Employee's signature (This form is not valid unless you sign it.) ▶ <input checked="" type="checkbox"/>		Date ▶ <input checked="" type="checkbox"/>			
8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)		9 Office code (optional)		10 Employer identification number (EIN)	